IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 1147 OF 2005

Shri Tanaji Shivaji Dhimdhime ... Appellant

V/s

Sau. Anita Shivaji Dhimdhime ... Respondent

Mr. M.A. Utagikar for the appellant.

CORAM: P.V. KAKADE, J.

DATED: 5TH OCT., 2005

P.C.:

1. The appellant has preferred this appeal against the judgment and order passed by the District Judge, Solapur dated 10.2.2005 dismissing his appeal and confirming the judgment and order passed by the Civil Judge, S.D., Barshi dated 19.8.2003 dismissing his application for divorce on the ground of cruelty under Sec.13(1)(ia) of the Hindu Marriage Act, 1955.

2. Heard learned counsel for the appellant at length. Perused the judgments of both the Courts below.

3. The appellant husband filed the application under

the said provision for divorce on the ground of mental cruelty against the respondent wife. Both the Courts below are seen to have appreciated the entire evidence in proper perspective.

The gist of the matter appears to be that the appellant is serving in the army and had chosen his right while he was on leave and got married to her. Immediately after three days after the marriage, he returned to his duty in Bhutan and respondent to her parental home. Thereafter, as it appears from the record, respondent in her defence has narrated her right in the conjugal home and it appears that the other in-laws of the respondent were near her and in absence of her husband she was caught up in peculiar circumstances that was created after departure of her husband which finally resulted in filing the criminal complaint against in-laws. No doubt they were acquitted in the criminal case by giving benefit of doubt. However, this is the ground on which the present suit came to be filed for divorce due to alleged act of the respondent.

4. In my considered view, mere filing of criminal complaint and acquittal from criminal case would constitute sufficient ground for mental cruelty

especially when acquittal was given benefit of doubt and not on the ground that the complaint was proved to be false. In such situation and in view of the facts and circumstances discussed in detail by both the Courts below, I am not inclined to intervene in this matter especially when marriage between the parties appears to be retrieveable so far. Be that as it may, the fact remains that there is no substantial question of law involved in this appeal and, as such, the concurrent findings of facts recorded by both the Courts below are to be upheld.

In the result, the appeal stands dismissed with no order as to costs.

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